

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
Civil Action #: 5:09-CT-3142-FL

LASCELLES SOMIE and ORAL
MALCOLM,

Plaintiffs,

v.

THE GEO GROUP INC., et.al.,
Defendants

FILED

MAR 31 2010

DENNIS P. IAVARONE, CLERK
US DISTRICT COURT, EDNC
BY _____ DEP CLK

PLAINTIFFS MOTION IN OPPOSITION TO
DEFENDANTS' MOTION TO STRIKE
PLAINTIFFS' SURREPLY

COMES NOW, Petitioners appearing pro se, files this motion in opposition to defendant's motion to strike their surreply motion. Plaintiffs ask that this court deny defendants' motion because:

1. Local Civil Rule 7.1 EDNC, has no provision in it that bars the filing of surreply motions, and plaintiffs' leave the decision in the court's discretion to grant them leave to file such motion, as it contests matters defendants raised in their Second Memorandum in support of their motion to dismiss.

2. Defendants attempt to sway the court to dismiss plaintiff's complaint in its entirety by citing case law from the eleventh circuit to show that the PLRA blocks Plaintiffs claims of injury. (see, Harris v Garner, 216 F.3d 970 (11th Cir. 2000)).

3. Plaintiff responded with more updated Eleventh circuit case law to show that even if they fail to show physical injury, recent Eleventh Circuit precedent shows that Plaintiff's complaint must stand, because nominal damages are appropriate if a plaintiff establishes a violation of a


fundamental constitutional right, even if he cannot prove actual injury sufficient to entitle him to compensatory damages. (See, Williams v. Brown, 347 Fed.Appx. 429 (11th Cir. 2009), (Citing, Hughes v. Lott, 350 F.ed 1157, 1162 (11th Cir. 2003). See also, Smith v. Allen, 502 F.3d 1255, 1271 (11th Cir. 2007)). Thus, recent Eleventh Circuit precedent case law defeats defendants arguments and request that this court should dismiss Plaintiffs' suit in its entirety, as a prayer for nominal damages is not precluded by section 1997e(e).

5. It was also necessary for Plaintiffs to respond to the other claims in defendants' Second Memorandum in support of their Motion to Dismiss to contest the matters set forth therein

WHEREFORE, Plaintiff ask that defendants motion to strike Plaintiffs' Sur-Reply motion be denied.

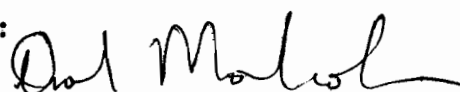
DATED: 3-30-10

Respectfully submitted by:



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and By:



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CERTIFICATE OF SERVICE

This is to certify that I have mailed a true and correct copy of the foregoing motion to opposing counsel Robert T. Numbers, II, Womble Carlyle Sandridge & Rice, One West Fourth Street, Winston-Salem, NC 27101, by placing contents in a postage paid envelope and depositing it in the prison legal mail box on this 30 day of March 2010.



Lascelles Somie